



MURIEL BOWSER
MAYOR

January 4, 2023

The Honorable Phil Mendelson
Chairman, Council of the District of Columbia
John A. Wilson Building
1350 Pennsylvania Avenue, NW, Suite 504
Washington, DC 20004

Dear Chairman Mendelson:

I am vetoing Bill 24-416, the "Revised Criminal Code Act of 2022" (RCCA). This bill does not make us safer.

The Council should amend this bill to remove provisions for which there remains deep divisions within the criminal justice community. The Council should then proceed with passing a bill that reflects the provisions for which there is consensus agreement. These provisions, which represent approximately 95% of the bill, would still represent a significant and much-needed update to our criminal code.

I support modernizing and standardizing the District's criminal code. However, given the broad scope of legislation, and remaining divisions of the criminal justice community, I urge the Council to take more time to consider it, a sentiment I have heard echoed in the community. We need to pause for greater reflection on the bill and its consequences – adding input from our residents, Advisory Neighborhood Commissioners, businesses, and judicial system – we need to consider the grave concerns of one third of the partners within public safety. While there were hearings on the Criminal Code Reform Commission's recommendations, the Council never held any public hearings on the legislation that was passed.

Like many of our residents, I have very significant concerns about some of the bill's proposals. Chief Judges Anita Josey-Herring and Anna Blackburne-Rigsby, U.S. Attorney Matthew Graves, and Chief of Police Robert Contee have each expressed substantial reservations, including our shared objection that the bill's planned implementation timeline is absolutely insufficient for a system-wide reform of this magnitude. To reiterate some of the issues expressed by key partners of the District's criminal justice system with the legislation:

The RCCA *reduces sentences for illegally carrying a gun on our streets*. In particular, felons in possession of a gun pose a danger to our communities. The U.S. Sentencing Commission has found firearms offenders recidivate at a higher rate and more quickly following their release into the community. In comparison to non-firearm offenders, they are more likely to be rearrested for serious crimes. Yet for arrestees in possession of a gun with previous convictions for violent crimes, the *Council reduced the maximum penalty from 15 years down to just four years* and

rejected Councilmember Brooke Pinto's amendment that would have addressed some of these concerns. In addition, the maximum penalty for second degree carrying a dangerous weapon—the equivalent of carrying a pistol without a license (CPWL) in current law—should be four years, consistent with the current maximum penalty, rather than the two years passed by the Council.

On this point, U.S. Attorney Graves also alerted the Council to a significant gap created by the bill that *will prevent charging many persons convicted of felonies under current law – including armed robbery – with possession of a firearm by an unauthorized person under the RCCA*. As he noted in his November 15, 2022, letter to the Council in support of Councilmember Pinto's amendment, "Persons previously convicted of these offenses should not be permitted to carry firearms, or in a position to threaten or harm another person with them, as they have already demonstrated that they are willing to engage in violent unlawful conduct."

Similarly, both U.S. Attorney Graves and I have raised objections that *the Council substantially reduced penalties for robberies, carjackings, and home invasion burglaries*. The higher penalties are not handed down for many offenders, but they are currently available to judges for repeat violent offenders committing the most heinous versions of these crimes. At a minimum, the following maximum penalties should be increased: (1) First and second degree burglary, which have maximums of 6 years (unarmed) and 4 years, respectively, in the RCCA; (2) third degree robbery, both armed and unarmed; and (3) crimes of violence committed with a firearm.


I concur with U.S. Attorney Graves' statement that in addressing the proliferation of firearms in our community and holding accountable individuals who illegally use firearms to commit violent crimes, "[I]t is crucial that we adequately penalize those who use firearms in crimes of violence and not reduce the maximum penalties below sentences that judges currently impose." (U.S. Attorney's November 15, 2022 Letter to D.C. Council, at p. 2.)

More generally, with the passage of the RCCA, *the Council has gone far beyond the modernization of our criminal laws to include controversial policy proposals best addressed in stand-alone bills where the public can review them and offer their thoughts*. For example, expanding jury demandability and expanding eligibility for the Second Look Act from youthful, convicted violent offenders to people of all ages for all crimes are admirable concepts and warrant a discussion on the impacts to victims in particular and the District's public safety in general.

A complete overhaul of our city's criminal code is a once-a-century opportunity. I believe it is more important to get this opportunity right than to add policies and weaken penalties into what should be a bill that makes DC safer. As elected officials, it is our duty to ensure our criminal justice system is fair and functional. Enacting this legislation without listening to our criminal justice partners or our judicial branch fails to uphold that duty. I look forward to working with the Council on meaningful changes to this bill that will advance public safety and justice in our city.

For the reasons described above, I am vetoing this bill.

Sincerely,


Muriel Bowser
Mayor